IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

Civil Writ Petition No. 16279 of 2006
Date of Decision : 11.05.2007

Malkit Singh

…... Petitioner

Versus

Punjab State Electricity Board

…… Respondent

CORAM : HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL.

Present : Mr. N.C. Sahni, Advocate
for the petitioner.

JUDGEMENT

M.M. KUMAR, J.(ORAL)

This petition filed under Article 226 of the Constitution prays for quashing order dated 14-1-2005 (P1), suspending the petitioner from the post of Head Cashier, Punjab State Electricity Board, Sub-Division Officer, Amloh. A further prayer has been made for issuance of direction to respondent to reinstate the petitioner with all consequential benefits including full back-wages.

Facts are not in dispute. The petitioner was appointed as Lower Division Clerk with the Punjab State Electricity Board (for brevity 'the Board') on 20-8-1991. He was placed under suspension on 14-1-2005 while discharging the duties as Lower Division Clerk-cum-Cashier in the Sub-Division Office of the Board, Amloh. On 21-1-2005, FIR No.5 was registered against him, alleging embezzlement of huge public fund. As a consequence he was arrested and challan has already been presented. In the meanwhile, he continues to remain
under suspension and the Board has also issued a charge-sheet dated 6-7-2005 (P4) to the petitioner to which he has filed a reply (P5).

We have heard the learned counsel for the petitioner, who has submitted that the order of suspension has been passed by an Additional Superintending Engineer, Administration Block, Amloh who is not competent authority as the order of suspension could only be passed by a Superintending Engineer who is the appointing authority of the petitioner. He has referred to Appendix 'C' of the Punjab State Electricity Board Ministerial Services (Class-III) Regulations 1985 and has argued that according to Regulation 4 read with Appendix 'C'; it is Superintending Engineer who is the appointing authority of the petitioner and he alone could pass an order placing the petitioner under suspension.

Having heard the learned counsel and perusing the record, we are of the considered view that the order of suspension does not suffer from any legal infirmity warranting interference of this Court. A perusal of the impugned suspension order dated 14-1-2005 would reveal that the order has been passed by an Additional Superintending Engineer under Rule 4 (1) of the Punjab State Electricity Board Employees (Punishment and Appeal) Regulations, 1971 (for brevity 'the Regulations'). It is further appropriate to mention that the charge-sheet dated 6-7-2005 has been issued by the Deputy Chief Engineer, Transmission Halqa, P.S.E.B., Khanna. The petitioner is also facing trial in FIR No.5 dated 21-1-2005 registered at Police Station, Amloh as challan has been presented. At this stage, it would be pertinent to refer Regulation 4 (1) of the Regulations, which is as under:

PART II – SUSPENSION

4. (1) The appointing authority or any other authority to which it is subordinate or the punishing authority or any other authority empowered in that behalf by the board by general or special order, may place an employee under suspension –

(a) where a disciplinary proceeding against him is contemplated or is pending; or

(b) where a case against in respect of any criminal offence is under investigation, inquiry or trial;

> provided where the order of suspension is made by an authority lower than the appointing authority or any other authority empowered in that behalf by the Board, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

A perusal of Regulation 4(1) of the Regulations reveals that an employee of the Board can be placed under suspension by the appointing authority or any other authority to which he is subordinate or the punishing authority or any other authority empowered in that behalf by the Board. The proviso to Regulation 4 further clarifies that in case, whereas the order of suspension is made by an authority lower than the appointing authority or any other authority empowered in that behalf by the Board such authority is to report to the appointing authority, the circumstances in which the order of suspension was made. It is undisputed that the Superintending Engineer is an appointing authority of the petitioner and he has
been placed under suspension by an Additional Superintending Engineer. Firstly there is no substantive difference between a Additional Superintending Engineer and a Superintending Engineer except etymologically. Both are supposed to hold a substantive post of Superintending Engineer.

It is further clear from the proviso that if a suspension order has been passed by an authority lower than the appointing authority then it is to report to the appointing authority, the circumstances in which the order of suspension was issued. According report appears to have been sent and the charge-sheet has been issued by the Dy. Chief Engineer who is a superior authority. For the sake of argument even if it is presumed that Additional Superintending Engineer is an authority lower than the Superintending Engineer, a charge-sheet has been issued by the Deputy Chief Engineer who is an authority to which the Superintending Engineer is subordinate. Therefore, the order of suspension passed by Additional Superintending Engineer would acquire its complete legality on the issuance of charge-sheet by the Deputy Chief Engineer. Moreover, challan has already been presented against the petitioner and it cannot be concluded that the order of suspension would suffer from any legal infirmity. Moreover, Regulation 4(1) of the Regulations empowers the competent authority to place an employee of the Board under suspension where disciplinary proceeding against him is

contemplated or is pending or a case against him in respect of any criminal offence is under investigation, inquiry or trial. The order of suspension even fulfill all the necessary features of Regulation 4 (1) of the Regulations.

For the reasons aforementioned this petition fails and the same is dismissed.

(M.M. KUMAR)

JUDGE

May 11, 2007
Amit

(RAJESH BINDAL)
JUDGE